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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/538,293

06/10/2005

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20792 7590 02/18/2010
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EXAMINER

HENN, TIMOTHY J

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

02/18/2010

PAPER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/538,293
Filing Date: June 10, 2005
Appellant(s): HAKANSSON, JOHANNES

D. Scott Moore
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 20 November 2009 appealing from the Office action mailed 09 June 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|--------------|--------------|---------|
| 7,038,716 | Klein et al. | 05-2006 |
| 2003/0071903 | Nakami | 04-2003 |
| 2003/0063198 | Yokokawa | 04-2003 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7-12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US 7,038,716) in view of Nakami (US 2003/0071903) in view of Yokokawa (US 2003/0063198).

[claim 8]

Regarding claim 8, Klein discloses a cellular phone (Figure 2) including an image sensor, a memory device and a transmitting unit (Figure 5). Klein further discloses that the memory can store a plurality of "applications" (c. 8, ll. 59-60), but does not explicitly disclose an image effects store and image editor as claimed.

Nakami discloses a system for applying image effects to captured images in which a plurality of image effects are stored in an image effects store (Figures 3 and 5) wherein an image editor is used to generate a new effect for application on digital images based on entries of a user and allowing storing of the effects in an effects file (e.g. a PIM) in the image effects store in a defined standardized image editor independent effects format (Figure 5 and 7; Paragraphs 0062, 0077-0078; note that the

Art Unit: 2622

effect is stored in a predetermined format which is useable by another machine to process the image data, i.e. the format is standardized between the camera and the printer). Therefore, it would be obvious to include an image effects store and image editor as described by Nakami so that the images captured by the phone of Klein can be processed according to the users wishes when transmitted to a printing device. However, while Nakami discloses selecting an effect to be applied to captured image data based on shooting condition (Figure 5), Nakami does not explicitly disclose that the same effect is used for multiple images.

Yokokawa discloses a camera which captures multiple images during different time periods (Figures 3A and 3B). Yokokawa further discloses that multiple shooting conditions may be used during image capture (Figures 7A and 7B). Therefore, it would be obvious to use the system of Klein in view of Nakami to capture multiple images as taught by Yokokawa so that images of multiple scenes over different days could be captured. It is noted that Yokokawa discloses that the same shooting conditions may be used during multiple different capture durations (Figure 7A, Condition 5). Following the teachings of Klein in view of Nakami, it would be obvious to select a common effect to be applied to these images (Nakami, Figure 5). It is further noted that the images from different shooting durations are not disclosed as being associated with each other by the system of Yokokawa.

[claim 9]

Regarding claim 9, while Nakami discloses a standardized format, Nakami does not explicitly disclose the use of XML. Official Notice is taken that the use of XML as a

Art Unit: 2622

file format to define options such as the processing options of Nakami is well known in the art as a easily readable and configurable file format. Therefore, it would be obvious to use an XML file format for the effects files of Nakami since XML is easily readable and configurable.

[claim 10]

Regarding claim 10, Nakami discloses storing a file with parameter settings made by the user (Paragraphs 0083-0088).

[claim 11]

Regarding claim 11, Klein discloses a wireless transmitting unit (Figure 5, Radio).

[claim 12]

Regarding claim 12, Nakami discloses a matrix of calculations to be performed on an image (Figure 5).

[claim 14]

Regarding claim 14, Nakami discloses an image editor which is arranged to retrieve stored effects files from the image effect store and apply a new effect to the file (e.g. Paragraphs 0089-0096).

[claims 1-5 and 7]

Claims 1-5 and 7 are method claims corresponding to apparatus claims 8-12 and 14. Therefore, claims 1-5 and 7 are analyzed and rejected as previously discussed with respect to claims 8-12 and 14.

[claim 15]

Regarding claim 15, see claim 8 above.

[claim 16]

Regarding claim 16, see claims 1 and 8 and further note that the method described by Nakami may be implemented in a computer program stored on a computer readable medium (Paragraphs 0025 and 0026).

3. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (US 7,038,716) in view of Nakami (US 2003/0071903) in view of Yokokawa (US 2003/0063198) in view of Moghadam et al. (US 5,913,088).

[claim 13]

Regarding claim 13, Klein in view of Nakami discloses creating effects to be applied to images, but does not disclose applying the effect prior to saving. Moghadam discloses a similar system in which an image effect to be applied to an image is previewed by the user (c. 3, ll. 21-43) prior to associating the effect with the image. Therefore, it would be obvious to create a preview of the effect of Klein in view of Nakami prior to storing as taught by Moghadam so that the user is able to preview the results of the effect.

[claim 6]

Claim 6 is a method claim corresponding to apparatus claim 13. Therefore, claim 6 is analyzed and rejected as previously discussed with respect to claim 13.

(10) Response to Argument

Regarding claims 1, 8, 15 and 16 Appellant argues that Klein, Nakami and Yokokawa do not disclose using a common effect to multiple images. Specifically, Appellant argues that Nakami “teaches against applying a common effect to multiple images when printing the images because the images may be associated with different photographers and/or the same photographer may wish to process/print images differently based on the particular subject matter featured in the image” (Brief, Page 5). Appellant refers to paragraph 0079 of Nakami as providing this teaching. While paragraph 0079 teaches the use of offset data according to a user's taste or a desired output image, nothing in this paragraph or the rest of Nakami explicitly teaches that the user's taste or the user's desired output image must be different for each and every image captured by the camera. Therefore, it is believed that Nakami does not teach away from using a common effect for multiple unassociated images as argued by Appellant.

Furthermore, it is noted that Yokokawa explicitly shows that it is known in the art to use common settings between different groups of images taken during different times (e.g. Figures 7A and 7B). For example, if a photographer visits a museum and captures images (i.e. images captured during a first duration), the user may have a certain desired output image in mind which would require a certain set of image capture and processing steps and parameters (e.g. Figures 5 and 8 of Nakami). If the same user were to return to the same museum to capture additional images (e.g. images captured during a second duration) with the same desired output, the user would naturally select to use the same capture and processing steps as used during the first visit.

Art Unit: 2622

Furthermore, a photographer or multiple photographers may wish to capture images at different locations with similar lighting conditions (e.g. multiple museums) and obtain images with the same effect.

Nakami discloses that the selection of image processing parameters (i.e. image effects) may be set as part of the image capturing conditions (Figures 5 and 9; Paragraph 0077-0078). Since Yokokawa discloses that the same shooting conditions may be selected during multiple image capture durations, it would be obvious to use the same image processing parameters of Nakami for a plurality of images which are not associated with each other. As described above, this would allow a photographer to take multiple images at different times while achieving the same desired output effect.

Appellant applies the same arguments for remaining dependent claims. For the above reasons, Klein, Nakami and Yokokawa Appellant's should not be found persuasive.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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